

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK

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UNITED STATES OF AMERICA	:	24 CR 521(GRB)
-against-	:	United States Courthouse
	:	Central Islip, New York
JACOB ISRAEL WALDEN,	:	
Defendant.	:	February 24, 2025
	:	12:00 PM

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CRIMINAL CAUSE FOR STATUS CONFERENCE  
BEFORE THE HONORABLE GARY BROWN  
UNITED STATES DISTRICT JUDGE

A P P E A R A N C E S:

For the Government: DEPARTMENT OF JUSTICE  
FRAUD DIVISION  
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Brooklyn, New York 11201  
BY: LEONID SANDLAR, ESQ.

For the Defendant: LAW OFFICES OF JEFFREY LICHTMAN  
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BY: JEFFREY LICHTMAN, ESQ.  
JEFFREY EINHORN, ESQ.

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Also Present: Mallori Brady, Pretrial Services Officer

Court Reporter: Lisa Schmid, CCR, RMR  
Proceedings recorded by computerized stenography.  
Transcript produced by Computer-aided Transcription.

LISA SCHMID, CCR, RMR  
Official Court Reporter

1 COURTROOM DEPUTY: Calling Criminal Case 24 CR  
2 521, USA versus Walden.

3 Counsel, please state your appearance for the  
4 record.

5 MR. SANDLAR: Good afternoon, Your Honor. Lenny  
6 Sandlar for the United States. Sitting next to me is  
7 Pretrial Officer Mallori Brady.

8 THE COURT: Good afternoon.

9 MR. LICHTMAN: Good afternoon, Your Honor.  
10 Jeffrey Lichtman, Jeffrey Einhorn, and Saul Bienenfeld for  
11 Defendant Walden.

12 MR. EINHORN: Good afternoon, Your Honor.

13 THE COURT: Very good.

14 All right. Counsel, what are we doing today?

15 MR. SANDLAR: Good afternoon, Your Honor.

16 We're here for a status conference, Your Honor.  
17 The Government is prepared to provide an update on the  
18 status of discovery.

19 Separately, the defense has submitted another  
20 bail motion, so the Government is prepared to address that  
21 as well. That came in on Friday afternoon. The  
22 Government is prepared to address it orally in the absence  
23 of time to submit a written response.

24 THE COURT: Well, you'd better hand up the  
25 written copy of it because I did not get it.

1 MR. EINHORN: May I approach?

2 THE COURT: Waiting until the eleventh hour,  
3 counsel. I try to read everything.

4 MR. EINHORN: I appreciate it.

5 MR. LICHTMAN: And Judge, for what it's worth,  
6 we're obviously -- we didn't file it expecting to argue it  
7 today --

8 THE COURT: Oh.

9 MR. LICHTMAN: -- as to the lateness of it. So  
10 we have no problem setting a short date, when the parties  
11 and the Court would be prepared.

12 THE COURT: Okay.

13 Forgive me. Counsel, you've led off with  
14 another bail hearing in this case. Did I handle the prior  
15 bail hearing? I don't remember.

16 MR. SANDLAR: Your Honor, at the last status  
17 conference and arraignment, the Government filed a motion  
18 for detention, permanent detention, and Mr. Brafman argued  
19 against it. There were voluminous submissions of multiple  
20 medical professionals, if you recall.

21 THE COURT: I remember.

22 MR. SANDLAR: And the issue appeared to be  
23 closed until counsel switched, and now before you is a  
24 bail application.

25 THE COURT: Okay.

1 Counsel, tell me what's different about the --  
2 let's talk about the bail first. What's different about  
3 the bail package from what I considered the last time?

4 MR. LICHTMAN: Judge, I'm having a really hard  
5 time hearing you.

6 THE COURT: Oh, I apologize.

7 MR. LICHTMAN: Would it be okay if I stood  
8 closer?

9 THE COURT: You can stand closer or I can speak  
10 louder. Would you like me to do that?

11 MR. LICHTMAN: How about we do both?

12 THE COURT: Well, okay. Sure.

13 So tell me what's different about the bail  
14 package you're presenting now and what I considered last  
15 time.

16 MR. LICHTMAN: Sure.

17 Judge, your decision was based clearly on the  
18 *Blackman* decision, if you recall. And the issue was the  
19 ubiquitousness of electronic devices that were coming into  
20 the house. He has five children. He has a wife. There  
21 were other people that were going to be coming in.

22 And you simply went back to *Blackman*, who had a  
23 similar set of circumstances. He was alleged to have done  
24 the same conduct. You brought up the fact that not only  
25 was it a possession case, which indicated dangerousness,

1 but there was additional dangerousness based on the fact  
2 that there was the allegation of the use of social media  
3 to produce --

4 THE COURT: Right. There was a -- what I call  
5 electronic predatory aspect of it, right?

6 MR. LICHTMAN: Exactly.

7 THE COURT: Using electronics --

8 MR. LICHTMAN: Exactly.

9 THE COURT: -- to pursue these matters.  
10 Go ahead.

11 MR. LICHTMAN: So in the previous bail  
12 application, he had a cellphone, he had a computer that  
13 were going to be monitored -- and the issue was, as Your  
14 Honor quite clearly wrote down, you actually quoted  
15 *Blackman* in your decision in Walden.

16 From what I recall, you actually read and said,  
17 there's just too many devices, too much potential, and  
18 this is too dangerous of a case, and the conduct is  
19 potentially so problematic that you weren't willing to  
20 take the risk of having him released on the conditions  
21 that were proffered.

22 So what we did now is, beyond increasing the  
23 bond from I think it was two million to 50 million,  
24 instead of just the one house, now we've got eight family  
25 properties. That's part of it, Judge.

1 But the home detention will be such that there  
2 will be no cellphones. There will be no computers that  
3 have access to the internet. There will be one single  
4 hard line that will be in the house. There will be an  
5 air-gapped computer, as Your Honor knows is going to be  
6 loaded with the discovery that he's able to look at, and  
7 there will be no emails or simply no ability to access the  
8 internet.

9 In addition, he will be under strict house  
10 arrest. He will only be able to leave for medical  
11 emergencies. His attorneys will visit him at the house.

12 He will living in a house down the street from  
13 the family home by himself. It's .3 miles away from the  
14 house that his wife and children live in. They'll be  
15 permitted to visit him on shabbat, which is Friday at  
16 sundown to Saturday at sundown.

17 No one will be allowed into the home except for  
18 people that are approved by the Government and Pretrial  
19 Services. No phones will be able to be brought into the  
20 house, any device that has the ability to access the  
21 internet, except if attorneys come to visit him.

22 Every entrance and exit of the house -- there's  
23 three -- will have cameras. We've done this before in  
24 cases, Judge. And we have a company that can review the  
25 footage, share it with the Government, share it with

1 Pretrial, whatever they want, and if there is anybody  
2 who's unauthorized that's coming into the house, it will  
3 be reported.

4 Any food deliveries will be left out in the  
5 front. That will be from approved vendors.

6 As I said, Judge, there will not be the issue of  
7 monitoring. The issue last time was simply that the  
8 Government rightly said that there's a limit to what  
9 Pretrial can do.

10 This is a simply one hard line of which the  
11 Government and Pretrial can listen in on except with calls  
12 from attorneys, and his therapist will be able to have  
13 therapy on the phone with him.

14 And that's really it. We've removed the concern  
15 that you had in *Blackman*, and I'll call it Walden, the  
16 January 22nd decision because there is not going to be any  
17 devices that will be able to have access to the internet.

18 THE COURT: Okay. Thank you.

19 MR. LICHTMAN: Thank you.

20 THE COURT: All right. Like me, the Government  
21 may not have fully reviewed this material. I don't know.  
22 But do you want some time to provide a written response?

23 MR. SANDLAR: No, I'm prepared to address it on  
24 the record right now, Your Honor.

25 THE COURT: Okay.

1 MR. SANDLAR: I had the benefit of the weekend.

2 THE COURT: Okay.

3 MR. SANDLAR: May I stay seated, Your Honor? Is  
4 that all right?

5 THE COURT: Thank you.

6 MR. SANDLAR: Thank you.

7 THE COURT: Hold on.

8 Counsel, can you hear him?

9 MR. LICHTMAN: I can, Judge.

10 THE COURT: Okay. If you can't -- if you can't,  
11 raise your hand.

12 MR. LICHTMAN: Thank you, Judge.

13 THE COURT: Okay.

14 MR. SANDLAR: Your Honor, of course the  
15 defendant in this submission doesn't -- proposes an  
16 interesting stricter package than the one that was before  
17 the Court a month ago, but the question is one of first  
18 principles, Your Honor, which is, what is the standard?

19 The defendant calls this a motion for  
20 reconsideration and cites the Bail Reform Act, Subsection  
21 F. Under that provision, the determination that the  
22 defendant must be detained, quote, may, end quote, be  
23 reopened at any time prior to trial if new information  
24 surfaces, quote, that was not known to the movant at the  
25 time of the hearing, and that has a material bearing on



1 the issue.

2 The Second Circuit in *United States v. Zhang*,  
3 that's 55 F. 4th 141, a case from 2022, said that a court  
4 may reopen a bail hearing, but it leaves the decision to  
5 reopen a hearing to the sound discretion of the district  
6 court. That is Your Honor.

7 Your Honor, it's pretty plain that in the  
8 intervening month since Mr. Brafman was here to argue  
9 against detention, not very much could have happened that  
10 was not known to Your Honor one month ago.

11 I asked myself, what are those -- what is new  
12 information that may not have been known to this Court one  
13 month ago when it entered a permanent order of detention  
14 after a very fulsome set of submissions from the  
15 Government and from the defense and after a prolonged  
16 hearing on the matter? I could think of three things.

17 Number one, the Government started to produce  
18 discovery, which the Government is prepared to address to  
19 the extent that Your Honor has questions, and has made the  
20 CSAM available to the defense for review; number two,  
21 Mr. Brafman left representation of the defendant and Mr.  
22 Lichtman joined the case; and Mr. Lichtman made the  
23 submission.

24 Those are the only new things that took place in  
25 the case since we were before you on January 22nd. None

1 of these developments fit the statutory basis for  
2 reopening a reasoned detailed decision that Your Honor  
3 made a month ago. If anything, some new developments cut  
4 in the opposite direction that I wanted to raise to Your  
5 Honor.

6 Number one, when we were before Your Honor, you  
7 asked a number of questions about the number of victims in  
8 this case, both that were charged in the indictment and  
9 that were uncharged. Much of your decision as to  
10 dangerousness was based on the number of victims, and the  
11 Government represented that there were 11.

12 In the intervening month, one development that  
13 has occurred is the Government has identified two more  
14 victims that were based out of the country, and the  
15 defendant -- the conduct is, broadly speaking, similar.  
16 The defendant contacted them for -- via social media, paid  
17 them money, and obtained child pornography in return.

18 So the number has gone up from 11 to 13 the last  
19 time we were before Your Honor, and may continue to go up  
20 as the investigation continues.

21 The agent has also reminded me that there are a  
22 number of victims of a separate CSAM distribution ring  
23 that the defendant paid into from 2020, from 2022, that --

24 THE COURT: What does that mean?

25 MR. SANDLAR: That means that the conduct to the

1 extent that we're back to the --

2 THE COURT: No, no. What is a CSAM distribution  
3 network mean?

4 MR. SANDLAR: Sure.

5 The defendant came to the Government's attention  
6 initially as a buyer from a different set of producers.  
7 There is a separately-charged distribution ring. There is  
8 a case ongoing in Missouri. Most of what Your Honor asked  
9 me about last time and what I represented to Your Honor  
10 concerned the defendant's own direct solicitation of CSAM  
11 from underaged women.

12 What I'm trying to say -- and forgive me if I  
13 was being unartful in the presentation -- is that in  
14 addition to the 11, now 13 victims that the defendant  
15 contacted or sought to obtain CSAM from directly, he was  
16 also -- one thing I neglected to raise to Your Honor last  
17 time is the defendant was also paying into  
18 previously-produced child pornography from a separate  
19 distribution ring in which there were a separate set of  
20 identified victims, right?

21 So to the degree that we're asking ourselves  
22 what has changed in the prior month, I would argue that  
23 very little has changed that favors the defendant. If  
24 anything, more victims have been identified by the  
25 Government.

1 As to the proposal itself, to the degree that  
2 Your Honor chooses to reopen the bail hearing, the number,  
3 of course, increases very substantially from one million  
4 to 50 million, but I recall a month ago, you said that  
5 this defendant is clearly of some means and if money was  
6 the only issue, that one million number was the issue, you  
7 are positive you could have come to a different number.

8 What Your Honor focused on was dangerousness,  
9 and the inability to monitor the defendant while he was in  
10 home detention.

11 On that point, the defendant puts forward a  
12 stricter package, but at the end of the day, the same  
13 concerns are prevalent, which is Pretrial's inability to  
14 monitor this defendant while in home detention in the  
15 manner that the defendant himself proposes. Pretrial is  
16 sitting next to me and is prepared to address that issue  
17 before Your Honor.

18 But I would also add that one issue that was  
19 raised before Your Honor as to the defendant's history and  
20 characteristics is his compulsion, his compunction to  
21 obtain child sexual abuse material and adult pornography  
22 and adult sexual services.

23 Your Honor will recall a violation issued by  
24 Probation before this case was indicted and before Your  
25 Honor in which the defendant was trying to evade

1 cyber-monitoring by chatting using voicemail in WhatsApp.

2 That is an example of the compulsion that the  
3 defendant faces when it comes to this conduct. That is  
4 consistent with Mr. Brafman's voluminous submissions a  
5 month ago, which detailed the defendant's compulsion,  
6 compunction and which is why it's very difficult, even  
7 assuming, you know, competent counsel is presenting a  
8 package, it's very difficult to imagine the world when  
9 this defendant will comply by these conditions -- which at  
10 the end of the day, cannot be monitored by Pretrial,  
11 despite the defense submission that they can.

12 Lastly, Your Honor, is, of course, what I would  
13 call the elephant in the room, which is ultimately, the  
14 defendant proposes to use his vast resources to arrange a  
15 private prison for himself, which runs directly in  
16 conflict with Second Circuit law.

17 Your Honor, I'm sure, is familiar with *United*  
18 *States v. Boustani*, a Second Circuit case from 2019.  
19 That's 932 F. 3d 79, in which the Second Circuit held as  
20 follows: Quote, we now expressly hold that the Bail  
21 Reform Act does not permit a two-tiered bail system in  
22 which defendants of lesser means are detained pending  
23 trial, while wealthy individuals are released to  
24 self-funded private jails, end quote.

25 This principle, of course, protects the

1 Constitution's guarantee of equal protection and ensures  
2 that all defendants, rich, middle class or well-to-do are  
3 treated in the same manner under the law.

4 Here, the latest proposal to isolate the  
5 defendant in one of his many properties with a \$50 million  
6 bail package, getting private food deliveries whenever he  
7 needs, is essentially the type of conduct that the Second  
8 Circuit directly prescribes prohibits in *Boustani*.

9 As in *Boustani*, Mr. Walden was detained  
10 regardless of his wealth initially, and quote, if a  
11 similarly-situated defendant of lesser means would be  
12 detained, a wealthy defendant cannot avoid detention by  
13 relying on his personal funds to pay for a private  
14 detention, end quote.

15 For all these reasons, Your Honor, there is no  
16 basis to reopen the bail hearing and to the degree that  
17 Your Honor reconsiders and reopens the bail hearing, he  
18 should not disturb the permanent order of detention that  
19 issued only one month ago.

20 Thank you, Your Honor.

21 THE COURT: Okay.

22 MR. LICHTMAN: Judge, may I?

23 THE COURT: You may.

24 MR. LICHTMAN: Thank you.

25 THE COURT: I'll say one thing before you speak

1 --

2 MR. LICHTMAN: Sure.

3 THE COURT: -- if it helps you, you know, I've  
4 often said -- and I may have said it in this transcript.  
5 I don't remember -- that when it comes to danger, you  
6 know, it almost doesn't matter how much money the bond is  
7 because it's a danger, right?

8 MR. LICHTMAN: Sure.

9 THE COURT: That's the problem.

10 Of course, you're trying to test that theory by  
11 posting a potential \$50 million bond. That's a lot of  
12 money that's partially secured. So that's interesting to  
13 me.

14 But I think, you know, the principle may --  
15 holds true, but you have certainly done a good job putting  
16 me to my paces. Let's put it that way.

17 MR. LICHTMAN: Judge, I understand.

18 And the reason we put the \$50 million number is  
19 that when the one or two million dollar number was put  
20 forth, your concern that was his net worth, the high end  
21 was in the 30-something million dollar range, and it would  
22 be a mere nuisance if he was risking one or two million  
23 dollars when you're worth that much.

24 So all we did was not only tie up his entire net  
25 worth, but the net worth of his brother and his mother and

1 his father, his entire family. So I don't how he could be  
2 penalized for the fact that he's just trying to ameliorate  
3 your concern --

4 THE COURT: I would not penalize him.

5 But counsel's other point about what the Second  
6 Circuit says about private prisons --

7 MR. LICHTMAN: I'll address that.

8 THE COURT: -- is interesting.

9 But yes. Go ahead.

10 MR. LICHTMAN: I'll address that because I know  
11 that I've litigated some of those cases.

12 And usually, the private MCC is what they call  
13 it now. We'll call it the mini-MDC. It's usually when  
14 there's a request for guards to be standing 24/7 outside  
15 the home. That's usually when there's a concern about a  
16 mini-MDC.

17 THE COURT: Right.

18 MR. LICHTMAN: This is a situation, frankly,  
19 Judge, not a very expensive thing that we're going for,  
20 the fact that he's going to have cameras that are going to  
21 be reviewed. This is a minor cost, relatively.

22 But again, the issue is simply dangerousness.  
23 How can you ameliorate dangerousness? The fact that he's  
24 asking to go to a house down the street, he should be  
25 penalized?



1           So what's the alternative? That he goes into  
2 the house and he lives with his family and five kids?  
3 Then the Government could say, well, there's too many  
4 phones and Pretrial can't possible monitor all those  
5 phones. So when he says that he wants to live down the  
6 street, now he's too rich and he can't live there.

7           We can't win on that type of mentality.

8           THE COURT: Yes. Counsel, I'll say this. I  
9 paid particular attention when the prosecutor was  
10 referring to the *Boustani* case, a case that I'm sure I've  
11 read. I'm not all that familiar with because I'm old  
12 enough to remember the original generation of those cases  
13 which was in the -- I'll call it the John Gotti organized  
14 crime era.

15           MR. LICHTMAN: Orena.

16           THE COURT: Yes, and Orena being one of them.  
17 Thank you. I do remember.

18           MR. LICHTMAN: You're welcome.

19           THE COURT: And that was sort of when the Second  
20 Circuit said, look, we don't create private jails because  
21 that's why we have jails. If you need a jail, use the  
22 jail. Don't -- there shouldn't be this sort of -- they  
23 didn't really call it a double standard, but it was just  
24 you can't do this privately that which we do publicly. A  
25 fair point.

1           Interesting that there's a different take on it.  
2           I'm interested to read *Boustani*, which I will do before I  
3           decide today because that's a different take on it, but I  
4           remember the old you can't build a jail because that's why  
5           we have jails.

6           MR. LICHTMAN: Of course.

7           And that's why we're not asking for guards.  
8           We're not suggesting -- that's why we're having one hard  
9           line, so there is not going to be any kind of massive  
10          monitoring that's needed.

11          But Judge, here's an interesting point. When  
12          the Government grabbed his phone at the airport in  
13          mid-April of last year, they had the phone from April,  
14          they had it until July 31st, when he was arrested on his  
15          way out of the country. They then obviously had  
16          downloaded all the material. They had seen what's on  
17          there.

18          By the time there was a September conference --  
19          there were actually two in front of magistrates -- at no  
20          point did they ask for detention based on dangerousness.  
21          They had the 11 victims. Now it's 13. Then they had the  
22          11 victims.

23          They knew about all this stuff. So April, May,  
24          June, July, August, September, they're still not asking  
25          for detention, even after the WhatsApp incident that

1       apparently is going to carry the day for the Government.

2               They didn't ask for detention -- October,  
3       November, December, January. Finally, they say, well, the  
4       difference, the only change is that now we have a 15-year  
5       mandatory minimum.

6               Well, Judge, the 15-year mandatory minimum, as  
7       Your Honor rightfully noted on January 22nd, only impacts  
8       the flight issue of which you claim was not your principal  
9       concern.

10              So in terms of dangerousness --

11              THE COURT: When I claim something, counsel, I  
12       mean it. It wasn't my principal concern. That's not just  
13       a claim.

14              Go ahead.

15              MR. LICHTMAN: But that was what your concern  
16       was dangerousness.

17              At no point after they had the phone, they had  
18       everything downloaded, they had their 11 victims, at no  
19       point did they feel that he was dangerous enough to ask  
20       him to be remanded.

21              Now the only thing -- you want to ask what's  
22       actually changed -- is the 15-year mandatory minimum, as  
23       we know only impacts flight. We have certainly reduced  
24       the flight risk. It was reduced enough on January 22nd,  
25       based on Your Honor's own comments that it was not your

1 principal concern.

2 The fact is, we are eliminating all the  
3 concerns -- and I'm going to read what the Government  
4 said, their concern about dangerousness: There are other  
5 phones in the house. There's access to visitors to the  
6 house. Mr. Walden has a wife who presumably has her own  
7 phone, and although he's only permitted to use one mobile  
8 device that is cyber-monitored or a laptop --

9 THE COURT: You might want to slow down a little  
10 bit for the court reporter.

11 MR. LICHTMAN: I'm sorry, Judge.

12 As Your Honor yourself described in the *Blackman*  
13 case, the ubiquity of electronic devices out there in the  
14 world and now in general, and specifically in a large  
15 household permits the defendant to use another phone.

16 Judge, your entire January 22nd hearing, the  
17 Government's argument had to do with ubiquitousness of  
18 electronics as noted initially by you in *Blackman*. We've  
19 completely removed that.

20 As Your Honor said, remember there was a time  
21 before cellphones when you had a hard line? If you were  
22 home, you had a phone. If you were out, you didn't.

23 Well, now, we're going to have go back to  
24 2000 -- or excuse me, 1996, when nobody had a cellphone.  
25 You can survive. It's down the street.

1           The fact that he wants to use a local deli or  
2           whatever to deliver food, Judge, the poorest person on the  
3           planet who gets out on bail is permitted to call and have  
4           food delivered. We're not asking for any kind of special  
5           consideration because he wants to eat -- and his family  
6           can bring food once a week.

7           I don't think he should be penalized because  
8           there's a second home. If anything, it's trying to show  
9           that the concerns of dangerousness have been ameliorated.  
10          All the things that you said on January 22nd, all the  
11          things that the Government said on January 22nd with  
12          regard to dangerousness are gone.

13          Now we're just going to move the goal posts,  
14          according to the Government and say, well, there is two  
15          more victims and therefore, he can't be trusted.

16          THE COURT: Okay. Fair enough.

17          MR. LICHTMAN: Thank you.

18          THE COURT: All right. I'm going to reserve  
19          decision on this.

20          The Government need not submit anything else in  
21          writing. I'm going to decide this very quickly. If you  
22          do, you can respond, but I'm not looking -- I'm not going  
23          to wait for that. Yes?

24          MR. SANDLAR: Thank you, Your Honor. A hundred  
25          percent understood.

1           My only supplement is that the Pretrial Officer  
2           is here in the courtroom. To the extent you have any  
3           questions about the feasibility of monitoring in the  
4           manner that the defense counsel proposes, that might be 30  
5           seconds to address.

6           Otherwise, if Your Honor has all the information  
7           that Your Honor needs, we can move on.

8           THE COURT: Well, the Pretrial Officer came all  
9           the way up here. If she has something to say, I'll give  
10          her 30 seconds.

11          So what would you like to say?

12          MS. BRADY: Judge, very briefly.

13          The conditions regarding his family and his  
14          children would not be a concern, as there was no concern  
15          of him seeing his children prior to this. Our concerns  
16          have to do with the monitoring in which they are  
17          requesting.

18          We do not have the capability of reviewing 24/7  
19          video monitoring of who comes in and out of someone's  
20          residence. We also cannot monitor a hard line inside a  
21          residence. That's called a wiretap, which we have no  
22          authority to do.

23          And we also wouldn't have the knowledge, unless  
24          they say so before speaking, who's counsel, who's a  
25          therapist. If we're monitoring all calls, it would be

1       difficult to filter certain calls out.

2               A single air-gap laptop presents a concern  
3       because by Adam Walsh standards, the defendant cannot  
4       access thumb drives, and in using an air-gapped laptop, a  
5       thumb drive is necessary to review the material on the  
6       computer.

7               So there are concerns. We don't -- getting  
8       involved in approving food deliveries, we supervise 300  
9       people on bracelets, and it is asking a lot of our agency  
10      to monitor in the manner in which is being requested.

11              MR. LICHTMAN: Judge, very briefly?

12              THE COURT: Yes.

13              MR. LICHTMAN: We've used the camera monitoring  
14      on cases, federal cases, one in the Southern District.  
15      While I don't have the cite for it, it's *United States*  
16      *versus Esposito*, a few years ago.

17              We're not asking Pretrial to look at the feed  
18      24/7. We're saying that we're going to have an  
19      independent company that will review it. They will alert  
20      all the parties if there is anybody that comes in, and  
21      will allow the video to be looked at by either the  
22      Government or Pretrial any time they request. Sometimes  
23      they do. Sometimes they don't.

24              With regard to the laptop computer, Judge, you  
25      know, it's an air-gap computer. He would have had the

1 ability to access the internet. They could have said that  
2 it's too dangerous. When we remove that, now it's, we  
3 can't deal with it. It's like Goldilocks and the Three  
4 Bears, if there's somewhere in between that we can figure  
5 out to make sure that there's not going to be any access  
6 to the internet. We're doing everything we can to show  
7 that there will be no access to the internet.

8 In terms of people coming in and out of the  
9 house with food deliveries, Judge, that's what the cameras  
10 are for.

11 At any time in terms of the hard line phone,  
12 we're willing to allow the Government to wiretap that  
13 phone. When has a defense lawyer ever come up to you and  
14 say, we're begging for a wiretap of a phone? Well, Judge,  
15 today is your lucky day. Here is the first time.

16 We can't just keep on saying we can't, we can't,  
17 we can't, we can't.

18 You know, being detained is not a minor matter,  
19 as Your Honor knows, and this is a case, respectfully,  
20 that if it goes to mitigation -- I've got another one  
21 right now -- this could take six, eight months before the  
22 mitigation package is prepared and there is testing.

23 These things take a long time, as Your Honor  
24 knows. We've got to go back and forth with the  
25 Government. This is not a case that is going to be



1 resolved in April of this year.

2 We're doing everything we can to show Your Honor  
3 good faith, to show that we're willing to reduce all the  
4 concerns that are both in *Blackman* and your January 22nd  
5 Walden decision. I'm not sure what else can be done.

6 And again, the cameras are hardly the mini-MCC  
7 that has come up in all of these cases where there's  
8 guards, and there's this. It's just cameras, Judge.

9 Thank you.

10 THE COURT: All right. Thank you.

11 Good. I will take that under advisement. I  
12 will get you a decision relatively soon.

13 What else do we need to talk about today?

14 MR. SANDLAR: Your Honor, the Government has  
15 produced discovery to the defense. Non-child pornographic  
16 discovery was produced to defense on February 14th.

17 Both Mr. Bienenfeld, sitting at counsel table,  
18 and Mr. Lichtman were provided an opportunity in the last  
19 several weeks to go to a secure facility to see the child  
20 pornography itself that is charged in the indictment.

21 The Government has some additional grand jury  
22 returns and search warrant returns to redact and produce,  
23 which we anticipate doing before the next status  
24 conference.

25 That is the status of the case for now, Your

1 Honor.

2 THE COURT: Okay.

3 Counsel?

4 MR. LICHTMAN: And Judge, we have reviewed the  
5 CSAM material or at least some of it. Obviously, there's  
6 an amount, there's -- we probably have to go back a few  
7 more times. Much of the discovery has been turned over.  
8 Much of it has not yet.

9 That being said, what I'd like to do is, there  
10 is a clear motion to suppress based on the search at the  
11 airport on the jet bridge. We're going to work on that  
12 now.

13 THE COURT: There is?

14 MR. LICHTMAN: There is.

15 THE COURT: That's interesting. Okay.

16 MR. LICHTMAN: It's actually --

17 THE COURT: Was he flying internationally?

18 MR. LICHTMAN: I'm sorry?

19 THE COURT: Was he flying internationally at the  
20 time?

21 MR. LICHTMAN: Yes, but he was flying out, not  
22 coming in.

23 THE COURT: That's interesting.

24 MR. LICHTMAN: That's very interesting.

25 And you'll see that there's not really any law

1 on this. It's an interesting issue.

2 THE COURT: Right. Because I know incoming,  
3 it's different, right?

4 MR. LICHTMAN: Usually, they do it incoming or  
5 if it's, you know, it's usually incoming when you're  
6 looking to seize it before he can get in. This was done  
7 on the way out. The issue isn't completely on that, but  
8 we believe it was an improper search.

9 We're going to start putting that together now,  
10 and we'll file it I think certainly before we have the  
11 next appearance.

12 THE COURT: I'll say this. I often say to my  
13 clerks, one of the reasons we have experienced judges --  
14 and that's sometimes preferable -- is, I've seen almost  
15 everything, right? I don't think I've seen that  
16 particular configuration before. That is interesting.

17 MR. LICHTMAN: Agreed. Same for me. I think  
18 we're about the same age, Judge. I hope you're younger  
19 than me.

20 THE COURT: Well, the Vic Orena reference put us  
21 on the same page. So sorry, counsel, we won't keep you  
22 out of it. All right?

23 How long do you want before the next status  
24 conference?

25 MR. SANDLAR: Thirty-five, 45 days, 30 to 45

1 days, whatever Your Honor prefers.

2 THE COURT: You know, let's do it in 45 because  
3 I want to get the bail decision in there, and depending on  
4 what happens there, I may give you an earlier date, but  
5 right now, I'll put it 45 days out.

6 MR. LICHTMAN: Thank you, Your Honor.

7 THE COURT: That will put it down to mid-April.  
8 Yes? I've got that right? What date?

9 MR. SANDLAR: That sounds correct, Your Honor.

10 THE COURT: Mid-April? I need a time and date.

11 MR. BIENENFELD: So April 10th to 21 is  
12 Passover.

13 THE COURT: Tenth through 21?

14 MR. BIENENFELD: Well, I think it's actually --  
15 yes, because Passover starts Saturday night, but -- of  
16 course, it starts on Saturday night, so the Friday  
17 beforehand is --

18 THE COURT: All right.

19 MR. LICHTMAN: Could we do April 8th, Judge?

20 THE COURT: I can do April 8th.

21 Does that work for everybody?

22 MR. BIENENFELD: Perfect.

23 MR. SANDLAR: Yes, Your Honor.

24 THE COURT: All right. We'll do April 8th at  
25 noon, please.

1 I'll you see then for a status conference, and I  
2 will endeavor to -- I'll make sure that the bail decision  
3 is done before then.

4 MR. LICHTMAN: Thank you.

5 THE COURT: So if anybody else has to follow up  
6 on it.

7 Anything else we need to do today?

8 MR. SANDLAR: I would make a motion to exclude  
9 time until the next status conference, Your Honor.

10 THE COURT: Oh, of course. Of course. Thank  
11 you. Sometimes we get so wrapped in the interim.

12 MR. LICHTMAN: And we consent.

13 THE COURT: You consent? Thank you for that.

14 I will say, given the circumstances of the case,  
15 the motion practice, the complexities here, I certainly  
16 think that a relatively modest adjournment to our next  
17 date is both in the defendant's interest and more  
18 importantly, in the public interest and is consistent with  
19 the interest of justice. So I'll exclude the time from  
20 now until the status conference.

21 What else do we need to do?

22 MR. SANDLAR: Nothing further from the  
23 Government.

24 MR. LICHTMAN: Nothing from the defense, Your  
25 Honor.

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THE COURT: Very good.  
Good job today, counsel.  
MR. LICHTMAN: Thank you.  
(Proceedings concluded.)